

**Ketronic, Inc. d/b/a Med-Net Ketronic *and* Local  
547, International Union of Operating Engi-  
neers, AFL-CIO. Case 7-CA-36761**

CORRECTION

On July 14, 1995, the National Labor Relations Board issued a Decision and Order in the above-entitled proceeding in which the case number was inadvertently omitted from the caption. Please make a pen and ink insertion: Case 7-CA-36761.

Dated, Washington, D.C. July 19, 1995

*NOTICE: This opinion is subject to formal revision before publication in the Board volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.*

**Ketronic, Inc. d/b/a Med-Net Ketronic and Local 547, International Union of Operating Engineers, AFL-CIO**

July 14, 1995

**DECISION AND ORDER**

BY CHAIRMAN GOULD AND MEMBERS STEPHENS  
AND BROWNING

Upon a charge filed by the Union on January 23, 1995, the General Counsel of the National Labor Relations Board issued a complaint on April 19, 1995, against Ketronic, Inc. d/b/a Med-Net Ketronic, the Respondent, alleging that it has violated Section 8(a)(1) and (3) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent failed to file an answer.

On June 13, 1995, the General Counsel filed a Motion for Summary Judgment with the Board. On June 14, 1995, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Summary Judgment**

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated May 10, 1995, notified the Respondent that unless an answer were received by May 24, 1995, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

The Respondent, with an office and place of business in Battle Creek, Michigan, has been engaged in

after-market conversions of minivans to make them wheelchair accessible. During the calendar year 1994, a representative period, the Respondent had gross revenues in excess of \$1 million and purchased goods and materials valued in excess of \$50,000 from suppliers located outside the State of Michigan and caused such goods to be shipped directly from points located outside the State of Michigan to its Battle Creek facility. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

About January 11, 1995, the Respondent coercively interrogated employees regarding their union activities. About mid to late January 1995, the Respondent threatened employees with plant closure if a union were brought in.

About January 11, 1995, the Respondent discharged its employees Gary Myrick, Anthony Dix, David Dewey, and Dennis Drisker in retaliation for employees' protected concerted activities and sympathies for and activities on behalf of the Union and in order to discourage employees from engaging in activities protected by Section 7 of the Act.

**CONCLUSIONS OF LAW**

By the acts and conduct described above, the Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

By discharging employees Gary Myrick, Anthony Dix, David Dewey, and Dennis Drisker, the Respondent has also been discriminating in regard to the hire or tenure or terms and conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(3) and Section 2(6) and (7) of the Act.

**REMEDY**

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(3) and (1) by discharging Gary Myrick, Anthony Dix, David Dewey, and Dennis Drisker, we shall order the Respondent to offer the discriminatees immediate and full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and

to make them whole for any loss of earnings and other benefits suffered as a result of the discrimination against them. Backpay shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). The Respondent shall also be required to remove from its files any and all references to the unlawful discharges, and to notify the discriminatees in writing that this has been done.

### ORDER

The National Labor Relations Board orders that the Respondent, Ketronic, Inc. d/b/a Med-Net Ketronic, Battle Creek, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Coercively interrogating employees regarding their union activities.

(b) Threatening employees with plant closure if a union were brought in.

(c) Discharging its employees in retaliation for employees' protected concerted activities or sympathies for or activities on behalf of Local 547, International Union of Operating Engineers, AFL-CIO or in order to discourage employees from engaging in activities protected by Section 7 of the Act.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Offer Gary Myrick, Anthony Dix, David Dewey, and Dennis Drisker immediate and full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and make them whole, with interest, for any loss of earnings and other benefits suffered as a result of the discrimination against them, in the manner set forth in the remedy section of this decision.

(b) Remove from its files any reference to the unlawful discharges and notify the employees in writing that this has been done and that the discharges will not be used against them in any way.

(c) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(d) Post at its facility in Battle Creek, Michigan, copies of the attached notice marked "Appendix."<sup>1</sup>

<sup>1</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a

Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material.

(e) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. July 14, 1995

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William B. Gould IV, Chairman

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James M. Stephens, Member

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Margaret A. Browning, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

### APPENDIX

#### NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT coercively interrogate employees regarding their union activities.

WE WILL NOT threaten employees with plant closure if a union were brought in.

WE WILL NOT discharge our employees in retaliation for employees' protected concerted activities or sympathies for and activities on behalf of Local 547, International Union of Operating Engineers, AFL-CIO or in order to discourage employees from engaging in activities protected by Section 7 of the National Labor Relations Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL offer Gary Myrick, Anthony Dix, David Dewey, and Dennis Drisker immediate and full reinstatement to their former jobs or, if those jobs no

longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and WE WILL make them whole, with interest, for any loss of earnings and other benefits suffered as a result of our discrimination against them, in the manner set forth in the decision of the National Labor Relations Board.

WE WILL notify each of them that we have removed from our files any reference to his discharge and that the discharge will not be used against him in any way.

KETRONIC, INC. D/B/A MED-NET  
KETRONIC